



South African Reserve Bank

Financial Surveillance Department

2017-03-01

## Exchange Control Circular No. 7/2017

### Intellectual property

The attention of Authorised Dealers and Authorised Dealers in foreign exchange with limited authority is drawn to the announcement by the Minister of Finance in the 2017 Budget Speech regarding intellectual property.

As a result thereof, South African residents will be granted certain exemptions relating to the sale, transfer, assignment and licensing of intellectual property.

In view of the aforementioned, Authorised Dealers are advised of the following amendments to the Currency and Exchanges Manual for Authorised Dealers:

#### Section B.2(A)(iii)

A new paragraph has been inserted as follows:

'Authorised Dealers may, however, approve the outright sale, transfer and assignment of intellectual property by South African residents, excluding mandated state owned companies as defined in Schedule 2 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), to unrelated non-resident parties at an arm's length and a fair and market related price, provided Authorised Dealers view the sale, transfer or assignment agreement and an auditor's letter or intellectual property valuation certificate confirming the basis for calculating the sale price. The above-mentioned dispensation excludes sale and lease back agreements.

- (a) All inward funds emanating from such transactions must be repatriated to South Africa within a period of 30 days from the date of becoming entitled thereto and reported under category 210 on the FinSurv Reporting System.'

Section B.2(A)(iv)

A new paragraph has been inserted as follows:

'Authorised Dealers may approve the licensing of intellectual property by South African residents to non-resident parties at an arm's length and a fair and market related price for the term of the agreement, provided Authorised Dealers view the licence agreement and an auditor's letter confirming the basis for calculating the royalty or licence fee.

- (a) All royalties and/or fees emanating from such transactions must be repatriated to South Africa within a period of 30 days from the date of becoming entitled thereto and reported under category 201 on the FinSurv Reporting System.'

Section B.2(A)(v)

A new paragraph has been inserted as follows:

'The sale, transfer, assignment and/or licensing of intellectual property in (iii) and (iv) above is subject to appropriate tax treatment.'

The amended Manual and guideline document may be accessed on the SARB website: [www.reservebank.co.za](http://www.reservebank.co.za) by following the links: Home>Regulation and supervision>Financial surveillance and exchange controls>Currency and exchanges documents.



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